IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-12-2005

CORAM

THE HONOURABLE MR. JUSTICE P. SATHASIVAM
and
THE HONOURABLE MRS. JUSTICE CHITRA VENKATARAMAN

WRIT PETITION Nos.12782 to 12784 of 2002
and
W.P.M.P.Nos.17206, 17208 and 17210 of 2002

1.Union of India, Rep. by
Comptroller and Auditor General of
India, 10, Bahadur Shah Zafar Marg,
New Delhi 110 002.

2.The Principal Accountant General (A&E),
Tamil Nadu,
Chennai-600 018.

3.Senior Accounts Officer (Claims),
O/o.The Principal Accountant General(A&E),
Tamil Nadu,
Chennai-600 018.

4.Secretary,
Ministry of Urban Development,
New Delhi. .. Petitioners in all WPs

Vs.

The Central Administrative Tribunal,
Chennai Bench represented by its
Registrar, Chennai-104. .. 1st Respt. in all WPs

S.Prabhu .. 2nd Respt. in WP 12782/2002
G.Sundarraj .. 2nd Respt. in WP 12783/2002
N.Elangovan .. 2nd Respt. in WP 12784/2002

Writ petitions are filed under Article 226 of the Constitution of India praying for the issue of Writs of Certiorari, to call for the records of the Tribunal in O.A.Nos.678/2000, 733/2000 and 732/2000 and quash the orders dated 28.9.2001 made thereon.

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For Petitioners in all
the petitions : Mr.Vijay Shankar ACGSC.

For 2nd Respondent in all
the petitions : Mr.Karthik Rajan

O R D E R

(ORDER OF THE COURT WAS MADE BY P.SATHASIVAM, J.)

Aggrieved by the common order of The Central Administrative Tribunal, Chennai-104 dated 28.9.2001, Union of India, Ministry of Urban Development Department has filed the above writ petitions.

2. The second respondent in the above writ petitions applied for grant of House Building Advance (HBA). The said advance had not been granted by the Department on the sole ground that the applicants purchased the property in question through General Power of Attorney (GPA) Holder and the same is not in accordance with the Rules. On receipt of memo dated 3.1.2000, the applicants approached the Tribunal for quashing of the same and for necessary direction for sanction of House Building Loan.

3. The Tribunal, considering Section 226 of the Indian Contract Act and the illustrations therein, after finding that in building contract, it is usual for the agreement holder to clothe himself with authority to sell and the same takes the form of the General Power of Attorney given by the Principal, accepted the claim of the applicants and issued necessary directions, questioning the same, the Department has filed the present writ petitions.

4. Heard the learned Additional Central Government Standing Counsel as well as the contesting second respondent.

5. Though it was pointed out by the Department before the Tribunal that as per the provisions of HBA Rules, House Building Advance is not admissible in cases where purchase of property was made through Power of Attorney, either before the Tribunal or before this Court, the relevant Rules have not been placed. Even otherwise, as rightly observed by the Tribunal, by virtue of Section 226 of the Indian Contract Act, if there is valid power of attorney, the same is acceptable and it binds even the Principal. Further, as rightly pointed out, any purchase effected through General Power of Attorney Holder cannot be said to be illegal or improper and the Courts have recognised the transaction effected through the General Power of Attorney. The reason given by the Tribunal in accepting the claim of

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the applicants is well founded. We do not find any error or infirmity or valid ground for interference. The writ petitions are dismissed. No costs. Consequently, connected WPMPs are also dismissed.

Svn

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Comptroller and Auditor General of
India, Union of India,
10, Bahadur Shah Zafar Marg,
New Delhi 110 002.

2.The Principal Accountant General (A&E),
Tamil Nadu,
Chennai-600 018.

3.The Senior Accounts Officer (Claims),
O/o.The Principal Accountant General(A&E),
Tamil Nadu,
Chennai-600 018.

4.The Secretary,
Ministry of Urban Development,
New Delhi.

5.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai-104.

+ 1 CC to Mr.V. Vijay Shankar ACGSC SR 49036.
+ 1 CC to Mr. R. Parthiban, Advocate SR 49997.

VJR
20/12/05.

W.P.Nos.12782 to
12784 of 2002.

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